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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 GALP SIERRA VISTA, L.P., a
8 Washington limited partnership, et al.,

9 Plaintiffs,

10 v.

11 RSUI INDEMNITY COMPANY, a New
12 Hampshire corporation, et al.,

Defendants.

CASE NO. C10-5647BHS

ORDER DENYING
PLAINTIFFS' MOTION FOR
RELIEF FROM ORDER OF
CONTEMPT

13 This matter comes before the Court on Plaintiffs' Galp Sierra Vista LP, Wentwood
14 Baytown LP, and Wentwood Rollingbrook LP's ("Plaintiffs") motion for relief from
15 contempt (Dkt. 40). The Court has reviewed the briefs filed in support of and in
16 opposition to the motion and the remainder of the file and hereby denies the motion for
17 the reasons stated herein.

18 **I. PROCEDURAL HISTORY**

19 On November 11, 2011, Plaintiff Equity Funding, LLC, ("Equity") filed a motion
20 for contempt of Gary Gray ("Gray"). Dkt. 28. No party responded. On December 20,
21 2011, the Court found that Gray had failed to comply with a deposition request and was
22 subject to sanctions. Dkt. 39. The Court ordered Gray to attend a deposition within
23 twenty days and to pay all fees and expenses associated with the deposition. *Id.*

24 On December 28, 2011, Plaintiffs filed a motion for relief from contempt. Dkt. 40.
25 On January 17, 2012, Equity responded. Dkt. 46. On January 23, 2012, Plaintiffs
26 replied. Dkt. 48.
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II. DISCUSSION

As a threshold matter, the Court did not find Gray in contempt. The drastic sanction of contempt is appropriate when a party fails to comply with an order of the Court. Fed. R. Civ. P. 37(b)(1). The Court found that Gray had failed to comply with a discovery request in violation of Fed. R. Civ. P. 37(d)(1)(A)(i) and was subject to the sanction of attending a deposition and paying certain fees pursuant to Fed. R. Civ. P. 37(d)(3). With this clarification, the instant motion is moot and, therefore, denied.

With regard to the deposition of Gray, the Court suspends the previously imposed sanctions due to further development of the record. Gray was unrepresented and/or seeking alternative representation when the subpoena was served and the deposition was scheduled. Therefore, subject to no further delay in discovery requests, the Court suspends the imposed sanctions.

III. ORDER

Therefore, it is hereby **ORDERED** that Plaintiffs' motion for relief from contempt (Dkt. 40) is **DENIED as moot**.

DATED this 14th day of February, 2012.



BENJAMIN H. SETTLE
United States District Judge